

BUSINESS DEVELOPMENT ORDINANCE OF THE TOWN OF PITTSTON

Section 1. Purpose

The purpose of this ordinance is to assure the comfort, convenience, safety, health and welfare of the people of the Town of Pittston, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving businesses within the Town of Pittston, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of this ordinance have been met and that the proposed businesses will meet the guidelines of Title 30, M.R.S.A., Section 1917.

Section 2. Authority and Administration

- A. Authority: This Ordinance is adopted pursuant to and consistent with Title 30 M.R.S.A., Section 1917, and may be known and cited as the "Business Development Ordinance of the Town of Pittston".
- B. Administration: The Planning Board of the Town of Pittston shall administer this Ordinance. The Code Enforcement Officer of the Town of Pittston will enforce all provisions of this Ordinance. The provisions of the Ordinance shall apply to all of the land area of all developments, as defined, located in the Town of Pittston.

Section 3. Definitions

As used in this Ordinance, unless the context otherwise indicates, the following words shall have the following meaning:

- A. Commercial Development: Commercial development shall refer to all buildings, or Parts thereof, parking lots or any other exterior facilities utilized for, or related to, The buying and/or selling of goods and services.
- B. Industrial Development: Industrial development shall refer to buildings, or parts thereof, parking lots, storage areas, gravel or borrow pits, quarries, mines, roads, pipe lines, electrical transmission lines, and any other exterior facilities or equipment, whether mobile or stationary, involved in the manufacture of a product, in the extraction of processing of any materials utilized in the manufacture or construction of a product, or in the transportation or transmission or any such materials or products.
- C. Institutional Development: Institutional development shall refer to such things as schools, municipal and government buildings, waste disposal facilities, nursing homes, hospitals, playing fields, parking lots and other outdoor facilities adjacent thereto, and shall include any public facility involving land, buildings, or structures of any kind.

- D. Residential Based or Stand Alone Business: Any business inside a residence or in an onsite structure that is under 2,250 square feet, related to, the buying and or selling of goods and services.
- E. Abutter: One whose property abuts, is contiguous, or joins the applicant's property at a border or boundary, including the property across the street, road, public way or private way.

Section 4. Applicability

- A. This Ordinance shall apply to all new and/or expanded commercial, industrial, institutional, residential based development in the Town of Pittston.
- B. No new and/or expanded business development shall commence in the Town of Pittston unless and until a business development application has been reviewed and approved by the Planning Board.

Section 5. Procedures.

5.1 The purpose of this section and Sections 5 through 16 is to establish an orderly equitable and expeditious procedure for reviewing proposed Business Development.

5.2 Agenda. In order to avoid unnecessary delays in processing applications for Business Development, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants will request to be placed on the Board's agenda at least one week in advance of a regularly scheduled meeting by contacting the Planning Board Secretary. Applicants who attend a meeting and who are not on the Board's agenda may be heard only after all agenda items have been completed, and then only if a majority of the Board so votes.

5.3 All fees must be paid prior to being put on the agenda with the completed application. (See fee schedule attached at end of Ordinance)

5.4 Within 30 days of receipt of an application, the Board will notify the applicant whether or not the application is complete, and what, if any, additional submissions are required for a completed application.

5.5 No binding commitments shall be made between the applicant and the Planning Board at this stage. The purpose of the pre-application meeting shall be to understand what is proposed, what is possible, and what is acceptable.

5.6 The Planning Board shall schedule an on-site inspection and public hearing.

Section 6. Pre-application Conference

- 6.1 Procedure.
 - A. Applicant presentation and submission of draft plans.
 - B. Question and answer period. Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.
 - C. Scheduling of on-site inspection and public hearing.
- 6.2 Submission. The pre-application draft plan will show, in simple sketch form, the proposed layout of roads, buildings and other features in relation to existing conditions. The draft plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed business development.
- 6.3 Rights not vested. The submittal or review of the pre-application draft plan will not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A., 302.
- 6.4 The applicant will provide the Board with a complete list with name(s) and current mailing addresses of all abutting property owners.

Section 7. Application, Site Inspection & Public Hearing

- 7.1 Before scheduling a site inspection and public hearing under this ordinance, all applicable fees must be paid and a list of abutters provided to the Board by the applicant. The Board will publish notice of the site inspection and public hearing at least ten days in advance in a local newspaper, the Town's web site and three public places in the Town of Pittston.
- 7.2 The Board will notify, by certified mail, the applicant and all abutters of the proposed Business Development, including owners of property on the opposite side of the road/street, at least ten days in advance of the site walk and public hearing, with the time and place of the site walk and public hearing.
- 7.3 The owners of property will be considered to be those to whom property taxes are assessed. Failure of any property owner to receive a notice of site walk and public hearing will not necessitate another site walk or hearing or invalidate any action by the Board.
- 7.4 At any public hearing, an applicant may be represented by an agent or attorney. Public hearings will not be continued to another time without good cause.

- 7.5 The applicant will be heard first. To maintain orderly procedure, each side will proceed without interruption. Questions may be asked through the Chair of the Board. All persons at the hearing will abide by the order of the Boards Chair.
- 7.6 Within 60 days of the public hearing, the Planning Board will reach a decision on the proposed Business Development, and will inform the applicant, Select Board, Code Enforcement Officer and/or Building Inspector in writing within seven days of its decision, stating finding of fact. The Board will prepare written findings of fact, based on all evidence presented, as well as its conclusions and the reasons.
- 7.7 No changes in an approved plan may be made, and no activities may be undertaken which deviate from an approved plan, first approved in writing by the Planning Board.
- 7.8 The Planning Board may modify or waive any of the below application requirements or performance standards when the Planning Board determines that because of the small size (less than 2,250 square feet) of the project such application requirements or standards would not be applicable or would be an unnecessary burden upon the applicant and not unreasonably affect the abutting landowners and the general health, safety and welfare of the Town.

Section 8. Exemptions

The following developments are exempt from all provisions of this Ordinance.

- A. Construction of barns, stables, and other agricultural related buildings by, and for the private use of, families residing on the property on which the building is to be located.
- B. All non-structural uses of land for agricultural or forestry purposes.

Section 9. Business Application:

The Business Development application shall consist of the following items and information unless waived in writing by the Planning Board.

- A. Map or maps prepared at a scale of not less than 1 inch to 100 feet, and which shall include:
 - 1. Name and address of the applicant or his authorized agent and name, if any, of the proposed business development.
 - 2. Municipal tax maps and lot number, if any, and names and addresses of abutting landowners.

3. Perimeter survey is required for a class 3, major project development, of the parcel made and must include certification by a registered land surveyor relating to reference points, showing magnetic north point, graphic scale, Corners of parcel and date of survey and total acreage.
4. Existing and proposed location and any dimensions of utility lines, sewer lines, water line easements, drainage ways and public or private rights-of-way.
5. Location, ground floor area and elevations of buildings and other structures existing and proposed along with the approximate location of building(s) or other structures on parcels abutting the site.
6. Method, location and construction of sanitary waste facilities.
7. Location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading facilities, design of ingress and egress of vehicles to and from the site onto public streets or roads, and curb and sidewalk lines.
8. Landscape plan showing location, type and approximate size of plantings and Location and dimensions of all fencing and screening.
9. Erosion and sedimentation control plan when applicable.
10. An estimate of the time period required for completion of the structural phases of the development.
11. Any other information as deemed necessary by the Planning Board to indicate the physical characteristics of the proposed business development.

Section 10. Standards

In order to be approvable, a development application must meet the following requirements:

- A. Preservation and Enhancement of the Landscape: The landscape shall be preserved in its natural state in so far as practicable, by minimizing tree and soil removal, and retaining existing vegetation where desirable during construction. After construction is completed, landscaping will enhance the physical design of the building(s) or site, and will minimize the encroachment of the proposed use on neighboring land uses.
- B. Relation of Proposed Development of the Environment: Proposed business developments shall be related harmoniously to the terrain and existing natural features, and to existing buildings, facilities and land uses in the vicinity of the business development. A business development shall not impair, disturb or displace any rare or endangered form of animal or plant life; nor shall it destroy or impair any animal habitat that could be avoided by modification of the proposed business development.
- C. Air Quality: The business development shall not detrimentally increase the concentration of any gases, particulate matter, odors or other substrates in the air of the Town of Pittston.

- D. Water Quality: The business development shall not contaminate or excessively deplete any ground or surface water source.
- E. Noise Level: The business development shall not raise noise levels to the extent that abutting or nearby property owners are excessively inconvenienced or harmed in any way. (See appendix A at end of ordinance.)
- F. Vehicular Access: The proposed site layout shall give consideration to the location, number, and control of access points, and to the adequacy of adjacent street, sight distances, turning lanes and parking areas. All entrances shall comply with the State of Maine and the Town of Pittston “Entrance Ordinance.”
- G. Surface Water Drainage: Adequate provision shall be made for surface drainage so that runoff of surface water from the site will not adversely affect neighboring properties and downstream conditions.
- H. General Conditions: The development shall not place an unreasonable burden on the general health, welfare, safety, or convenience of the citizens of Pittston; nor shall it unreasonably alter the ability of the citizens to administer the Town's educational and other municipal facilities and services.
- I. Utilities: The development shall not impose a burden upon public utilities which could be avoided by modification in the development.
- J. Advertising Features: The size, location, and lighting of all exterior signs and outdoor advertising shall not detract from the design of the proposed building(s) and structure(s), or from surrounding properties.
- K. Special Features: Exposed storage areas, soil, gravel or rock extraction areas, exposed machinery, service areas, truck loading areas, pipe lines or electrical transmission lines, utility buildings and other structures shall be subject to such setbacks, screen plantings or other screening methods to prevent them from detracting from surrounding properties. Utility buildings and all other structures shall have siding that is residential in appearance including clapboard siding in wood, metal or vinyl, shingles or shakes, board and batten and other sidings commonly found on site-built housing. In all cases, new buildings and building additions shall be set back a minimum of 20 feet from all public or private road right-of-way property lines, and no part of any new building shall be closer than 20 feet to any property line.
- L. Exterior Lighting: All exterior lighting shall be designed to minimize adverse impact on neighboring properties.
- M. Emergency Vehicle Access: Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings, structures and applicable facilities at all times.

Section 11. Loss of Structure

Any building, facility or structure destroyed by fire, accident or other “Acts of God” may be replaced so long as replacement is underway within 2 years and completed within 3 years of the original loss date of the general commercial, industrial, institutional, or residential purposes of the original building, facility or structure are retained.

Section 12. General Provisions

- A. Waiver and Modification of this Ordinance:
1. Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with this Ordinance, or where there are special circumstances of a particular plan, or where the proposed activity is subject to the provisions of another ordinance for the Town of Pittston where the requirements of that ordinance would essentially duplicate the requirements of this Ordinance, it may waive any provision of this Ordinance provided that such waiver will not have the effect of nullifying the purpose of this Ordinance, the Comprehensive Plan, the Shoreland Zoning Ordinance, or any other ordinance or regulation.
 2. In granting any waiver, the Planning Board shall state in writing, the Conditions for which the waiver was granted.

Section 13. Validity. Effective Date. Conflict of Ordinances

- A. Validity: Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance, and to this end, the provisions of this Ordinance are hereby declared to be severable.
- B. Effective Date:
- C. Conflict of Ordinances: This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a higher standard for the promotion and protection of health, welfare or safety, the provisions of this Ordinance shall prevail.

Section 14. Appeal

If the Planning Board shall disapprove an application or grant approval with conditions that are objectionable to any person, affected directly or indirectly, or when it is claimed that the provisions of this Ordinance do not apply, or that the true intent and meaning of this Ordinance have been misconstrued or wrongfully interpreted, any person, affected directly or indirectly, may appeal in writing from the decision of the Planning Board to the Pittston Board of Appeals. Said appeal must be made within 30 days of the Planning Board's written decision.

Section 15. Amendments

This Ordinance may be amended by a majority vote in a special or regular Town Meeting of Pittston.

Section 16. Enforcement

- A. The Code Enforcement Office of the Town of Pittston shall act in all cases of violations of this Ordinance by notifying, in writing, the owner and the lessor (if any) of the Business Development and the Select-Board of the kind or nature of the violation and the correction of same if possible. Said notification shall be deemed to have been made when sent to the owner and the lessor (if any) by certified mail.
- B. The Select Board is charged with the prosecution for all violations of the provisions of this Ordinance. In cases where such notices referred to in Paragraph 16A, above, are not promptly complied with after receipt of said notices, the Select Board shall make such complaints to the courts as, in their judgment, are proper, or may institute such actions or proceedings at law or in equity as are proper to restrain, correct, remove, or punish such violations.
- C. Any person or corporation who shall violate any of the provisions of this Ordinance or fail to comply with any of the requirements thereof shall, upon conviction, be punished by a fine of not less than \$25 and not more than \$100 a day on which each violations continues. Each shall constitute a separate offense.

Appendix A Noise

Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat, frequency, shrillness, or volume (please refer to table below). The maximum permissible sound pressure level of any continuous, regular or frequent sound produced by any activity regulated by this ordinance shall be as established by the time period be measured on a sound level meter at all major lot lines of the proposed site, at a height of at least four feet above the ground surface.

	Sound pressure level limit	
	7AM-8PM	8PM-7AM
Activities outside Industrial locations	50 dB (A)	45 dB(A)
Activities within Industrial locations	60 dB (A)	55 dB(A)

The following uses and activities shall be exempt from the sound pressure level regulations.

1. Noises created by construction and temporary maintenance activities between 7AM and 7PM.
2. The noises of safety signals, warning devices, and emergency pressure relief valves and any other emergency activity.
3. Traffic noise on public or private roads, driveways, or railroads.

In interpreting the decibel ratings in the Noise Performance standards of this ordinance, it is helpful to understand that when two noises of say 70 dB A (as from two vacuum cleaners) are present, the total noise level is 73 dB a, not 140 dB A. In other words, 73 dB A represents twice as much noise generation (or sound pressure) as 70 dB A. This is because the decibel scale is logarithmic, and not an arithmetic or linear scale. Because the range of sound intensities is so great, it is convenient to compress the scale logarithmically. Sharply painful noise is 10 million times greater in sound pressure level than the least audible sound. In decibels, this 10 million to 1 ratio is simplified logarithmically to 140 dB A.

The following table provides a layman's guide to understanding how various decibel levels relate to ordinary noises most people are familiar with:

Decibels

35	Average outdoor noise level in undeveloped woodland, or average indoor nighttime noises (11 PM- 6 AM) in suburban area with windows closed.
40	Average day-night outdoor noise level in rural residential area.

47	Average outdoor daytime background house level on a typical suburban street. (not including nearby traffic or aircraft)
50	Large transformers at 100 feet
60	Air conditioner at 100 feet, or average outdoor day-night noise in old urban residential area
63	Outdoor noise of a family car passing through a quiet suburban street.
66	Air conditioner (window unit) at 6 to 10 feet.
70	vacuum cleaner
73	Outdoor noises of a sports car driving along a quiet street.
76	Expressway traffic at 50 feet from pavement.
80	Garbage disposal, or heavy city traffic
84	Diesel truck going 40mph at 50 feet, or a diesel train going 45 mph at 100 feet.
87	Power lawn mower at source
90	Motorcycle at 25 feet.
97	Boeing 737 at 6000 feet before landing
110	Rock n' Roll band
115	Gasoline powered chain saw at source when cutting.

A good standard of noise within dwellings with the windows closed is 45dB A in daytime and 35 dB A at night. Closing windows usually reduces outside noise by about 10 dB A. The highest noise level that permits relaxed conversation indoors is 45 dB A. People tend to raise their voices in order to be heard, when the background noise exceeds 45- 50 dB A.

We hereby certify that the forgoing is a true copy of the Business Development Ordinance of the Town of Pittston as enacted at the Special Town Meeting on **1/31/2018**

Given under our hands this day of

Roger Linton, Selectperson

Mary Jean Ambrose, Selectperson

Gregory Lumbert, Selectperson

Attest: _____
Deborah Barry, Town Clerk
Town of Pittston, Maine

Date: